

MEDICINE BOARD[653]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 147.76 and 272C.5, the Board of Medicine hereby amends Chapter 25, "Contested Case Proceedings," Iowa Administrative Code.

The purpose of Chapter 25 is to provide rules for the administration of contested cases before the Board. The amendments require that hearing panels have six members. The amendments also allow parties in contested cases before the Board to present the testimony of witnesses by affidavit, by written or video deposition, in person, by telephone, or by videoconference.

The Board approved the Notice of Intended Action on September 23, 2011. Notice of Intended Action was published in the Iowa Administrative Bulletin on October 19, 2011, as **ARC 9807B**. At a public hearing held November 8, 2011, from 4 to 5 p.m., the Board received comments from Leah J. McWilliams of the Iowa Osteopathic Medical Association; Heidi Goodman of the Iowa Medical Society; Connie Diekema of Finley, Alt, Smith, Scharnberg, Craig, Hilmes & Gaffney, law firm; and David Brown of Hansen, McClintock & Riley, law firm. In response to comments, the following change was made to a proposed amendment to 25.18(6): The phrase "Subject to terms and conditions prescribed by the presiding officer" was inserted at the beginning of the last sentence, "Parties may present the testimony of witnesses by affidavit, by written or video deposition, in person, by telephone, or by videoconference."

These amendments were adopted by the Board on December 8, 2011.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapter 272C.

These amendments will become effective on February 15, 2012.

The following amendments are adopted.

ITEM 1. Amend subrule 25.18(1) as follows:

25.18(1) ~~A hearing may be~~ Hearings are conducted before a quorum of the board or a panel of not less than three members of the board, at least two of whom are licensed by the board. When a sufficient number of board members is unavailable to hear a contested case, the executive director, or the executive director's designee, may request alternate members, as defined in rule 653—1.1(17A,147) and Iowa Code ~~section sections~~ sections 148.2A and 148.7(4), to serve on the hearing panel. A hearing panel containing alternate members must include at least six people, of whom the majority shall be members licensed to practice under Iowa Code chapter 148 a majority must be board members, a majority must be members licensed to practice medicine under Iowa Code chapter 148, and no more than three may be public members.

ITEM 2. Amend subrule 25.18(6) as follows:

25.18(6) Subject to terms and conditions prescribed by the presiding officer, parties have the right to introduce evidence on issues of material fact, cross-examine witnesses present at the hearing as necessary for a full and true disclosure of the facts, present evidence in rebuttal, and submit briefs and engage in oral argument. Subject to terms and conditions prescribed by the presiding officer, parties may present the testimony of witnesses by affidavit, by written or video deposition, in person, by telephone, or by videoconference.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/11/12.